

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

DEREK BRIGGS, #1666858 §
VS. § CIVIL ACTION NO. 6:18cv420
DIRECTOR, TDCJ-CID, ET AL. §

ORDER ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE

Plaintiff Derek Briggs, an inmate currently confined within the Texas Department of Criminal Justice, (TDCJ), is proceeding *pro se* and *in forma pauperis* in the above styled and numbered civil rights lawsuit. The complaint was referred to the United States Magistrate Judge, the Honorable Judge John D. Love, for findings of fact, conclusions of law, and recommendations for the disposition of the case.

On June 19, 2019, Judge Love issued a Report, (Dkt. #29), recommending that Defendants' motion for summary judgment, (Dkt. #21), based solely on the exhaustion of administrative remedies, be denied. A copy of this Report was sent to both parties, return receipt requested. On July 5, 2019, the Clerk received correspondence from Briggs wherein he states that he does not object, (Dkt. #30). To date, Defendants have not filed objections.

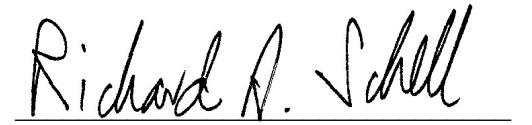
Because both parties failed to object to Judge Love's Report, both are barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). Accordingly, it is

ORDERED that the Report of the United States Magistrate Judge, (Dkt. #29), is **ADOPTED** as the opinion of the court. Further, it is

ORDERED that Defendants' motion for summary judgment based on exhaustion, (Dkt. #21), is **DENIED**. Plaintiff Briggs' civil rights lawsuit will continue to proceed.

SIGNED this the 29th day of September, 2019.



RICHARD A. SCELL
UNITED STATES DISTRICT JUDGE